

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: CS/SB 510

INTRODUCER: Ethics and Elections Committee and Senator Brodeur

SUBJECT: Financial Disclosures for Local Officers

DATE: January 3, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Rey</u>	<u>Roberts</u>	<u>EE</u>	Fav/CS
2.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 510 requires the following local officers to file full and public disclosure of financial interests pursuant to the Florida Constitution:¹

- Mayors.
- City commissioners.
- Elected members of a city council; town council; village council; or other governing body of a city, town, or village.
- City, county, town, or village managers.

The bill revises the definition of “local officers” to conform to the changes proposed in the bill.

This bill will take effect on January 1, 2023.

II. Present Situation:

The Florida Constitution requires all elected constitutional officers, candidates for such offices, and statewide elected officers, to file a full and public disclosure of their financial interest.² Other public officers, candidates, and public employees may be required to file a full and public disclosure of their financial interests as determined by law.³

¹ Fla. Const., art. II, s. 8(a) (2021).

² Fla. Const., art. II, ss. 8(a) and 8(i)(2) (2021).

³ Fla. Const., art. II, s. 8(a) (2021).

Pursuant to the Constitution, the term “full and public disclosure of financial interests” means the reporting individual must disclose his or her net worth and the value of each asset and liability in excess of \$1,000.⁴ The disclosure must be accompanied by either a sworn statement with this information or a copy of the reporting individual’s most recent federal income tax return.⁵ Pursuant to general law, the Commission on Ethics (Commission) has created by rule CE Form 6 to be used to make the required full and public financial disclosure.⁶

According to the Commission, and as articulated in the form, individuals holding the following positions must file CE Form 6: governor; lieutenant governor; cabinet members; legislators; state attorneys; public defenders; clerks of circuit courts; sheriffs; tax collectors; property appraisers; supervisors of elections; county commissioners; elected superintendents of schools; district school board members; Jacksonville City Council members (including the mayor); compensation claims judges; Duval County superintendent of schools; Florida Housing Finance Corporation Board members; Florida Prepaid College Board members; and each expressway authority, transportation authority (except the Jacksonville Transportation Authority), bridge authority, or toll authority created pursuant to Chapter 348 or 343, F.S., or any other general law.⁷

Reporting individuals are required to file CE Form 6 annually with the Commission by July 1.⁸ Additionally, candidates for a constitutional officer are required to make a full and public disclosure of their financial interests at the time of qualifying.⁹

Beginning January 1, 2022, all disclosures filed with the Commission must be filed electronically through an electronic filing system created and maintained by the Commission as provided in s. 112.31446, F.S..¹⁰

Statement of Financial Interests (CE Form 1)

While elected local officers¹¹ may have the same spending power as county commissioners and other public officers that are required to file CE Form 6, state law only requires local officers to file CE Form 1, which is a less detailed form of financial disclosure.¹² Elected local officers, municipal officers, and candidates for such offices, must file this form at the time of qualifying and annually by July 1.¹³

Those who are required to file a statement of financial interests pursuant to s. 112.3145, F.S., are required to disclose primary sources of income (other than from his or her public position), secondary sources of income (in certain circumstances), real property (other than a residence or

⁴ Fla. Const., art. II, s. 8(i)(1) (2021).

⁵ Section 112.3144, F.S. (2021), beginning January 1, 2022, individuals required to file full and public disclosure of financial interests may not use federal income tax returns for the purposes of reporting income.

⁶ Rule 34-8.002, F.A.C.

⁷ Rule 34-8.003, F.A.C., http://www.ethics.state.fl.us/Documents/Forms/Form1.html#form_6 (last accessed on 11/19/2021).

⁸ Rule 34-8.002, F.A.C.

⁹ Section 99.061(5), F.S. (2021).

¹⁰ Section 112.3144, F.S. (2021).

¹¹ Section 112.3145(1) (2021).

¹² Section 112.3145(3), F.S. (2021); *see also* Rule 34-8.202, F.A.C.

¹³ Rule 34-8.202, F.A.C.

vacation home in Florida), intangible personal property, liabilities, and interests in specified businesses.¹⁴ The law permits a filer to report the required interest based upon one of two thresholds. First, the filer may report all interests which exceed certain dollar thresholds depending on the type of asset.¹⁵ Alternatively, the filer may calculate whether an interest is required to be reported based upon whether that interest exceeds a specified percentage of his or her net worth. This is referred to as the “comparative (percentage) threshold.” Because the law permits a filer to choose which threshold he or she is going to use, the CE Form 1 promulgated by the Commission requires the filer to identify the threshold used by checking a box. The statute does not expressly require this designation on the CE Form 1. The CE Form 1 is due July 1. A grace period is provided until September 1 of each year.¹⁶

A candidate for an office subject to the CE Form 1 filing requirement must file a CE Form 1 with his or her qualifying papers.¹⁷ If the candidate qualifies prior to the annual CE Form 1 filing deadline, the CE Form 1 that is filed with the candidate’s qualifying papers will satisfy the annual disclosure requirement.¹⁸ If the candidate qualifies after the annual CE Form 1 filing deadline, the candidate must file a copy of the CE Form 1 with the qualifying officer.¹⁹ General law also requires an individual subject to the CE Form 1 filing requirement to file a final disclosure statement within 60 day after leaving his or her public position.²⁰ The final disclosure must cover the period between January 1 of the year in which the person leaves and the last day of office or employment, unless the person takes another public position for which a CE Form 1 or CE Form 6 is required within the 60-day period, or if the person is otherwise required to file CE Form 1.²¹

Beginning January 1, 2023, all statements filed with the Commission must be filed electronically through an electronic filing system that is created and maintained by the commission as provided in s. 112.31446, F.S.²²

III. Effect of Proposed Changes:

The bill requires the following local officers to file the more detailed CE Form 6 annually, beginning with the 2022 filing year: mayors; city commissioners; elected members of a city council, town council, village council, or other governing body of a city, town or village; and city, county, town, or village managers.

The bill excludes the local officers listed above from being required to file CE Form 1.

The bill takes effect January 1, 2023.

¹⁴ Section 112.3145(3), F.S. (2021).

¹⁵ See Florida Commission on Ethics, Statement of Financial Interests (Form 1), available at http://www.ethics.state.fl.us/Documents/Forms/Form%201_2020i.pdf?cp=20211215 (last visited December 15, 2021).

¹⁶ Section 112.3145(8)(c), F.S. (2021).

¹⁷ Section 112.3145(2)(a), F.S. (2021).

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Section 112.3145(2)(b), F.S. (2021).

²¹ *Id.*

²² Section 112.3145(2)(b), F.S. (2021).

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill requires mayors; city commissioners; elected members of a city council; town council; village council; or other governing body of a city, town or village; and city, county, town, or village managers to file the more detailed CE Form 6 in lieu of the currently required CE 1. The expense to the Commission associated with mailing these individuals a CE Form 6 instead of a CE Form 1 is indeterminate, but likely insignificant and can be absorbed by current resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 112.3144 and 112.3145 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Ethics and Elections on November 30, 2021:

The CS excludes mayors; city commissioners; elected members of a city council; town council; village council; or other governing body of a city, town or village; and city, county, town, or village managers from the term “local officer” as used in s. 112.3145(2)(b), F.S., which addresses their obligation to file a CE Form 1. The aforementioned “local officers” must still comply with the other obligations in s. 112.3145, F.S.

- B. **Amendments:**